IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION

CIVIL ACTION NO. 3:22-CV-00658-FDW-SCR

ALBERT C. BURGESS JR.,)	
Plaintiff,)))	
v.)	<u>ORDER</u>
RUGBY LABORATORIES, INC., et. al.,))	
Defendants.)	

THIS MATTER is before the Court on Defendants' "Motion[s] for More Definite Statement" (Doc. No. 18 and 20). <u>Pro se</u> Plaintiff's responses were due March 30, 2023, and no response has been filed.

The Court has carefully reviewed the record, authorities and Defendants' arguments. On December 22, 2022, the presiding District Judge granted Plaintiff leave to file an Amended Complaint on or before January 9, 2023. See "Order" (Doc. No. 11). On February 7, 2023, Plaintiff filed a Motion for Extension of Time, which was granted. See Text-Only Order entered February 8, 2023. Plaintiff's Amended Complaint was then due February 21, 2023. Id.

On February 27, 2023, Plaintiff filed the operative Amended Complaint, which has added only the word "lidocaine" to Plaintiff's earlier allegation that he sought relief for faulty "drugs" produced by Defendants. Defendants assert that the addition of "lidocaine" is insufficient to identify the active ingredient of a drug or determine whether and how Plaintiff was injured by it, and whether either Defendant was involved in its manufacture. Defendants credibly argue that the pleading is so ambiguous that they cannot reasonably prepare a response.

THEREFORE, IT IS ORDERED that:

- 1. Defendants' "Motion[s] for More Definite Statement" (Doc. No. 18 and 20) are GRANTED pursuant to Fed. R. Civ. P. 12(e). On or before May 1, 2023, Plaintiff shall file another Amended Complaint that identifies for example, the drug at issue, states who prescribed it, the dates Plaintiff used it, and the specifics of any injury Plaintiff suffered.

 Plaintiff is warned that failure to file a more definite statement of facts may result in DISMISSAL WITH PREJUDICE. Plaintiff also is warned to refrain from using derogatory or inflammatory language not based in fact in the Amended Complaint.
- Defendants' "Motion[s] to Strike" (Doc. No. 18 and 20) are DENIED AS MOOT.
 Defendants' alternative "Motion[s] to Dismiss" (Doc. No. 18 and 20) are
 ADMINISTRATIVELY DENIED AS MOOT WITHOUT PREJUDICE.
- The Clerk is directed to send copies of this Order to <u>pro se</u>
 Plaintiff, to defense counsel and to the Honorable Frank D. Whitney.
 SO ORDERED.

Signed: April 4, 2023

Susan C. Rodriguez
United States Magistrate Judge